

MONTANA INNOCENCE PROJECT

EXHIBIT
DATE 3/9/2011
SB 58

A 501(C)(3) NONPROFIT PUBLIC CHARITY

P.O. BOX 7607, MISSOULA, MT 59807 • (406) 243-6698 • WWW.MTINNOCENCEPROJECT.ORG

House Judiciary Committee

RE: SB 58, Lengthening Preservation of Crime Scene DNA evidence in Certain Cases

Proponent testimony submitted by Jessie McQuillan, Executive Director

Impact of SB 58:

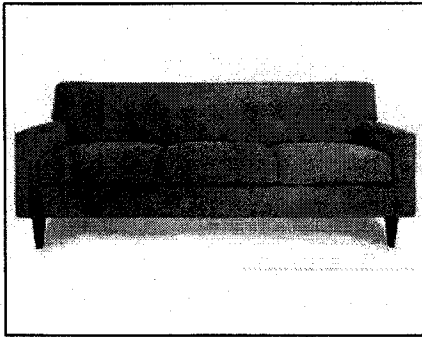
- **Local law enforcement agencies have always been responsible for collecting and storing evidence for criminal cases they investigate.** And since 2003, they have been required by state law (46-21-111) to preserve DNA evidence from crime scenes for 3 years, if a felony conviction is obtained.
- **SB 58 would change current law in a few key ways:**
 1. In unsolved murder & rape cases, it requires agencies to preserve crime scene DNA evidence for the statute of limitations or 30 years (whichever is shorter), to help solve cold cases & enhance public safety.
 2. In murder & rape cases with convictions, it allows people to request that crime scene evidence be preserved for up to 30 years. A person would need to request this preservation, and a judge must approve the request.
 3. It provides a clear way for agencies to dispose of evidence that is too large or difficult to store. This offers an additional release valve for agencies, which could store a small clipping or slide of DNA evidence, but not keep the whole couch or mattress.

Why SB 58 is Important:

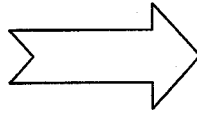
- **SB 58 was the bi-partisan result of a study by the Interim Law & Justice Committee,** which carefully crafted a consensus bill to address this issue.
- **More than 260 people have been exonerated by DNA evidence—and in 40 percent of these cases, the same DNA helped ID the true perpetrator.** If DNA evidence isn't preserved, none of this is possible.
- **DNA evidence is only available in 10% of cases, but when it is found in murder & rape cases, it is crucial evidence that clearly determines guilt or innocence.** Preserving this evidence is a vital way to ensure the accuracy of convictions.
- **Many law enforcement departments already recognize the value of preserving DNA evidence beyond the current 3 year requirement—SB 58 would help achieve consistency on evidence preservation throughout state.** The Law and Justice Interim Committee study survey found that in unsolved cases, 97% of departments already meet SB 58 requirements; in conviction cases, 64% already preserve for the statute of limitations or indefinitely.

SB 58 Reduces Storage of Large Items—Saves Space & Money:

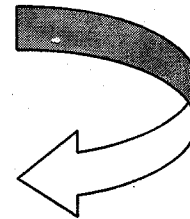
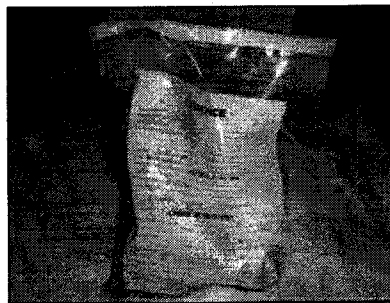
Crime Scene: Large Sofas Can Take Up Too Much Space



Evidence Techs Remove Samples for Testing & Preservation:



Clippings Containing Biological Evidence Can Be Preserved Using Much Less Space:



SB 58 FREQUENTLY ASKED QUESTIONS:

Will SB 58 require expensive refrigerators or freezers to preserve evidence?

NO. DNA evidence does not need to be refrigerated or frozen to be adequately preserved. It can be packaged like other evidence and maintained at room temperature.

Is the state trying to shift responsibility for preserving evidence to the counties?

NO. Local law enforcement agencies have always collected & preserved evidence in cases they investigate. SB 58 would lengthen the period of time that agencies need to preserve DNA evidence in certain cases.

Does SB 58 require agencies to hold onto useless evidence for unreasonable periods?

What happens when an agency wants to dispose of un-needed evidence?

Existing language in 46-21-111 provides a clear way for agencies to dispose of evidence before the required 3 years are up. SB 58 makes it even easier for agencies to dispose of large evidence items by allowing them to remove clippings so they don't need to preserve the whole item (couch, mattress, automobile).